



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

July 22, 2004

TO: All County Clerks/Registrars of Voters (04226)

FROM: _____
JOHN MOTT-SMITH
Chief, Elections Division

SUBJECT: **COMPLIANCE WITH HAVA**

Our office has received a letter, dated June 30, 2004, from the United States Department of Justice, Civil Rights Division, concerning compliance with the requirements of Title III of the Help America Vote Act (HAVA). The USDOJ has been monitoring implementation of the HAVA in the states, including California.

The letter indicates, in part, that: "Unfortunately, in many of the counties we monitored, there were numerous instances of non-compliance with HAVA's terms." This "non-compliance" is not seen as willful, but rather the result of inadequate training.

Although lack of compliance was observed in specific counties, the USDOJ indicates "concern about the level of HAVA compliance in other counties of the state as well" and asks our office what steps we will take to make sure all counties are in compliance for the November election.

Attached is a copy of the letter from the USDOJ, as well as a copy of our responses. Among other actions, we have indicated to the USDOJ that we will: (a) provide each county with a copy of the letter from the USDOJ, and; (b) that we will convene a meeting to discuss these requirements.

Please note that the following information is required to be provided to voters at each polling place, and pollworker training should include these subjects.

1. **POSTING OF INFORMATION:** Attached is a copy of Section 302(b) of the HAVA that requires posting of "voting information" in the polling place. This requirement is defined to include:
 - A. A sample version of the ballot;
 - B. Information on the date of the election and the hours during which polling places will be open;

- C. Instructions on how to vote, including how to vote provisionally;
 - D. Instructions regarding ID requirements for those voters who registered to vote in the county for the first time by mail and who have not previously voted in the county;
 - E. General information on voting rights under state and federal law, including the right of an individual to cast a provisional ballot and instructions on how to contact election officials, and;
 - F. General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.
2. **“FREE ACCESS” SYSTEM**: Section 302(a)(5)(A) requires that: “At the time that an individual casts a provisional ballot, the appropriate State of local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain ... whether the vote was counted, and, if the vote was not counted, the reason why the vote was not counted.”

Our office will be speaking with representatives from the CACEO to determine an appropriate time to meet to discuss the HAVA requirements.

If you have any questions, please feel free to contact me directly at 916/653-3228.

Hava/usdojccrov2-074